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10/563,046	05/18/2006	Michael Weiler	081276-1082-00	6075
23409 7590 04/14/2010 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3727				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,046

Applicant(s)

WEILER ET AL.

Examiner

Gary K. Graham

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 15-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ostrowski (EP patent 1040972).

The patent to Ostrowski discloses the invention as is claimed. Ostrowski discloses a wiper device (fig.1) for a motor vehicle. The device includes a wiper bearing (2) and a fastening element (9) that is connected to a vehicle body (1). A deformable, elastic decoupling element (3) is arranged between the bearing and the fastening element. It appears such element will act to decouple noise, at least as far as defined. Both the decoupling element and the wiper bearing are detachably connected to the fastening element. Both the decoupling element and fastening element are provided with an undercut as at under projection (7) and at groove (10). Such undercuts are each formed by a material projection or thickening of the respective decoupling element or fastening element in an end area of the fastening element, at least as far as defined. The undercut on the fastening element features a diagonal surface on which the decoupling element rests. Each thickening is considered to form a hook-shaped tooth, such that there is a tooth on each side of the undercut region. A displacement path will exist between a wiper arm (not shown) and the fastening element.

With respect to claim 12, such does not appear to define any particular structure not disclosed by Ostrowski.

Claims 1-6, 9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Goto et al (US patent 6,254,167).

The patent to Goto discloses the invention as is claimed. Goto discloses a wiper device (fig.3) for a motor vehicle. The device includes a wiper bearing (12A) and a fastening element (2) that is connected to a vehicle body (5). A deformable, rubber decoupling element (11A) is arranged between the bearing and the fastening element. It appears such rubber element will act to decouple noise, at least as far as defined. Both the decoupling element and the wiper bearing are detachably connected to the fastening element. At least the decoupling element is provided with an undercut (18) which is formed by a material projection or thickening of the decoupling element on each side thereof in an end area of the fastening element, at least as far as defined. Each thickening is considered to form a hook-shaped tooth, such that there is a tooth on each side of the undercut region (18). A displacement path is provided between the wiper arm (WA) and the fastening element (see fig.3).

With respect to claim 12, such does not appear to define any particular structure not disclosed by Goto.

Claims 1-7 and 9, 10, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Scholl (US patent 5,609,329)

The patent to Scholl discloses the invention as is claimed. Scholl discloses a wiper device (fig.1) for a motor vehicle. The device includes a wiper bearing (3) and a fastening element (11) that is connected to a vehicle body (12). A deformable, elastic plastic decoupling element (14) is arranged between the bearing and the fastening element. It appears such element will act to decouple noise, at least as far as defined. Both the decoupling element and the wiper bearing are detachably connected to the fastening element. Both the decoupling element and fastening element are provided with an undercut as at groove (15) and under projection of head (23). Such undercuts are each formed by a material projection or thickening of the respective decoupling element or fastening element in an end area of the fastening element, at least as far as defined. Each thickening of the decoupling element is considered to form a hook-shaped tooth, such that there is a tooth on each side of the undercut region. A displacement path will exist between a wiper arm (not shown) mounted on shaft (5) and the fastening element. A disk (19) is arranged between the material projection in the end area of the fastening element and the hook-shaped end area of the decoupling element (see fig.2).

With respect to claim 12, such does not appear to define any particular structure not disclosed by Scholl.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrowski (EP patent 1040972).

The patent to Ostrowski discloses all of the above recited subject matter with the exception of the fastening element being of plastics.

While Ostrowski is silent as to fastening element material, to make such of any particular well known material appears but a mere design choice. Various well known materials, including plastics, metals, composites, etc are well established for use in the automotive wiper art. Plastics is a well established material in the wiper art known for its lightweight, durability and low cost.

It would have been obvious to one of skill in the art to make the fastening element of Ostrowski of plastics, to provide a lightweight, durable element, as a mere choice of well known materials. One of ordinary skill in the art would choose an appropriate material for any particular component of the wiper device based more on the particular strength, cost, etc., desired than on any inventive concept.

Claim 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goto et al (US patent 6,254,167).

The patent to Goto discloses all of the above recited subject matter with the exception of the decoupling element and the fastening element being of plastics.

While Goto discloses that the decoupling element is of rubber and the fastening element material is metal, to make such of any particular well known material appears but a mere design choice. Various well known materials, including plastics, metals, composites, etc., are well established for use in the automotive wiper art. Plastics is a well established material in the wiper art known for its lightweight, durability and low cost and the degree to which it can be made elastic or rigid as desired.

It would have been obvious to one of skill in the art to make the decoupling element and the fastening element of Goto of plastics, to provide a lightweight, durable element, as a mere choice of well known materials. One of ordinary skill in the art would choose an appropriate material for any particular component of the wiper device based more on the particular strength, cost, etc., desired than on any inventive concept.

Allowable Subject Matter

Claims 15-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's remarks with respect to the drawing objections are noted. In view of such and as applicant has amended claim 13 to change its dependency, the requirement to show a particular decoupling element as set forth in the objection is hereby withdrawn. Applicant's amendment to the specification has overcome the drawing objection for including reference numerals not mentioned in the description.

Applicant's remarks with respect to the 112 first paragraph rejection are noted. In view of such remarks and as claim 13 has been amended to change its dependency from claim 5 to claim 3, the 112 first paragraph rejection is no longer deemed tenable.

Applicant's arguments with respect to the rejection of claims 1-13, as being anticipated by Morin (WO 03/047926), have been considered and are persuasive in view of the declaration filed 04 January 2010 under 37 CFR 1.131. However, as set forth above, claims 1-19 are rejected under new grounds.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727